

AMENDED IN ASSEMBLY JUNE 27, 2012

AMENDED IN ASSEMBLY JUNE 6, 2012

AMENDED IN ASSEMBLY APRIL 30, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2563

Introduced by Assembly Member Smyth

February 24, 2012

An act to add Part 8 (commencing with Section 38600) to Division 25.5 of the Health and Safety Code, relating to climate change, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2563, as amended, Smyth. California Global Warming Solutions Act of 2006: offsets.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include the use of market-based compliance mechanisms.

This bill, if the state board uses its authority to include the use of market-based compliance mechanisms, would require the state board, on or before January 1, 2013, to adopt a specified process for the review and consideration of new offset protocols and, commencing in 2013 and continuing annually thereafter, use that process to review and consider new offset protocols.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) The California Global Warming Solutions Act of 2006
4 (Division 25.5 (commencing with Section 38500) of the Health
5 and Safety Code) requires the state to reduce greenhouse gas
6 emissions to 1990 levels by 2020.
- 7 (b) On October 20, 2011, the State Air Resources Board adopted
8 the final cap-and-trade regulation pursuant to the act, to become
9 effective January 1, 2012, as required by that act, and also adopted
10 Resolution 11-32 to require that its executive officer develop
11 implementation documents laying out the process for the review
12 and consideration of new offset protocols.
- 13 (c) The cap-and-trade regulation is part of the state's global
14 warming scoping plan and is intended to provide covered entities
15 under the act the flexibility to seek out and implement the
16 lowest-cost options to reduce greenhouse gas emissions and will
17 provide an estimated 20 percent of the emissions reductions
18 required to achieve 1990 emission levels by 2020, as required by
19 the act.
- 20 (d) The cap-and-trade regulation allows offset credits to be used
21 as a means by which parties subject to the regulation can lower
22 their cost to comply with the regulation while still ensuring a
23 reduction of greenhouse gas emissions and caps the use of offset
24 credits at no more than 8 percent of a covered entity's compliance
25 obligation.
- 26 (e) The State Air Resources Board has adopted four compliance
27 offset protocols for use in the United States that can be used to

1 certify high-quality offset credits that are additional, real,
2 ~~measurable, and permanent, quantifiable,~~ verifiable, and
3 ~~enforceable~~ as required by the California Global Warming
4 Solutions Act of 2006: Livestock Manure projects, Urban Forests
5 projects, Ozone Depleting Substances Destruction projects, and
6 Forests projects.

7 ~~(f) The four adopted protocols, as currently written, are not~~
8 ~~expected to generate the volume of offset credits necessary to~~
9 ~~supply the full amount of allowable credits under the cap-and-trade~~
10 ~~regulation between 2013 and 2020. If approved by the State Air~~
11 ~~Resources Board, additional protocols could increase the supply~~
12 ~~of additional, real, permanent, quantifiable, verifiable, and~~
13 ~~enforceable offsets in additional categories of uncapped emissions,~~
14 ~~including, for example, improved or maintained agriculture yields~~
15 ~~with less greenhouse gas emissions, recycling, organic composting,~~
16 ~~landfill gas reductions, and coal mine gas reductions.~~

17 ~~(g) To facilitate the future adoption of offset protocols that~~
18 ~~achieve additional, real, quantifiable, verifiable, and enforceable~~
19 ~~carbon dioxide reductions, as required by the California Global~~
20 ~~Warming Solutions Act of 2006, and to provide greater clarity and~~
21 ~~certainty for project developers and regulated entities, the State~~
22 ~~Air Resources Board should adopt an offset protocol review and~~
23 ~~approval process.~~

24 ~~(h)~~
25 (f) While a state comprehensive offset protocol review process
26 would provide more certainty for carbon dioxide offset suppliers
27 and purchasers to invest in environmentally worthwhile projects
28 that meet certain criteria under the California Global Warming
29 Solutions Act of 2006, it is the intent of the Legislature that only
30 high-quality offset credits that represent rigorously evaluated offset
31 protocols and that meet the statutory requirements of the act be
32 allowed for compliance with the cap-and-trade regulation.

33 SEC. 2. Part 8 (commencing with Section 38600) is added to
34 Division 25.5 of the Health and Safety Code, to read:

35
36 PART 8. CERTIFICATION OF COMPLIANCE OFFSETS
37

38 38600. (a) On or before January 1, 2013, if the state board has
39 exercised its authority pursuant to subdivision (a) of Section 38570,
40 the state board, in accordance with Section 38571, shall adopt a

1 process for the review and consideration of new offset protocols.

2 The process shall include, but not be limited to, all of the following:

3 (1) A schedule, to be posted on the state board's Internet Web
4 site, that depicts the timeline for review and consideration of new
5 offset protocols by the state board. This schedule shall be updated
6 regularly and at least annually.

7 (2) An online tracking system that will allow the public to track
8 the progress of new offset protocols under review and consideration
9 by the state board.

10 (3) A point of contact at the state board for entities interested
11 in the process of review and consideration of new offset protocols
12 by the state board.

13 (4) An explanation of how the review and consideration process
14 will accommodate public input and comments on new offset
15 protocols under consideration.

16 (5) An explanation of the criteria used for consideration of new
17 offset protocols, including, but not limited to, a description of the
18 standards for protocol approval, rejection, and delay. This
19 description also shall include, to the extent feasible, a description
20 of the social, environmental, and financial impacts analysis used
21 in making offset protocol decisions as well as an estimate of
22 potential supply and expected development costs.

23 (b) Commencing in 2013, and continuing annually thereafter,
24 if the state board has exercised its authority pursuant to subdivision
25 (a) of Section 38570, the state board shall use the process adopted
26 pursuant to subdivision (a) to review and consider new offset
27 protocols.

28 SEC. 3. This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or safety within
30 the meaning of Article IV of the Constitution and shall go into
31 immediate effect. The facts constituting the necessity are:

32 In order to obtain additional flexibility, certainty, and
33 accountability with regard to the implementation of compliance
34 offset protocols by the State Air Resources Board under the
35 California Global Warming Solutions Act of 2006, it is necessary
36 for this act to take effect immediately.